

UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

JOHN P. JOHNSON,
Plaintiff,

vs.

MICHAEL J. SCOTT, P.C.,
NORTH STAR CAPITAL ACQUISITION,
FIA CARD SERVICES, and
BANK OF AMERICA
Defendant.

§
§
§
§
§
§
§
§
§
§

Civil Action No. 5:12-cv-01117-FB-HJB

EXHIBITS TO DEFENDANT MICHAEL J. SCOTT, P.C.'S
MOTION FOR SUMMARY JUDGMENT

Respectfully submitted,

ROBBIE MALONE, PLLC

/s/ Robbie Malone

ROBBIE MALONE

State Bar No. 12876450

Email: rmalone@rmalonelaw.com

EUGENE XERXES MARTIN, IV

State Bar No. 24078928

Email: emartin@rmalonelaw.com

ROBBIE MALONE, P.L.L.C.

Northpark Central, Suite 1850

8750 North Central Expressway

Dallas, Texas 75231

TEL: (214) 346-2630

FAX: (214) 346-2631

COUNSEL FOR MICHAEL J. SCOTT, P.C.

EXHIBITS TO DEFENDANT MICHAEL J. SCOTT, P.C.'S

MOTION FOR SUMMARY JUDGMENT - Page 1

M:\122.0000 Michael Scott\122.0033 John Johnson v. Bank of America\Correspondence\122.0033 Cover page for Exhibits to MSJ.docx

CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the foregoing document has been forwarded via ECF to all parties and CM/RRR to Plaintiff on this 23RD day of May, 2014 to:

John P. Johnson
11006 Clifton Forge
San Antonio, Texas 78230

Ronald David Smith
Fulbright & Jaworski, L.L.P.
300 Covent Street, Suite 2100
San Antonio, TX 78205

/s/ Robbie Malone
ROBBIE MALONE

**UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION**

JOHN P. JOHNSON,
Plaintiff,

vs.

MICHAEL J. SCOTT, P.C.,
NORTH STAR CAPITAL ACQUISITION,
FIA CARD SERVICES, and
BANK OF AMERICA
Defendant.

§
§
§
§ Civil Action No. SA-12-CA-1117-F
§
§
§
§
§
§

AFFIDAVIT

STATE OF TEXAS

§

§

KNOW ALL MEN BY THESE PRESENTS:

COUNTY OF DALLAS

§

BEFORE ME, the undersigned authority, on this day personally appeared Michael Scott, known to me to be the person whose name is subscribed on this instrument and, having been first duly sworn, upon his oath deposes and states as follows:

"I, the undersigned, am over the age of eighteen (18) years, of sound mind, have never been convicted of a felony or a misdemeanor of moral turpitude and am fully competent and qualified to make this Affidavit. I have personal knowledge of all of the facts set forth in this Affidavit and all facts and statements contained herein are true and correct of my own personal knowledge.

"I am the founding attorney and senior partner of the law firm of Scott, Parnell and Associates, P.C., formerly known as Michael J. Scott, P.C. (hereinafter, "Michael J. Scott, P.C." or "Firm"). Michael J. Scott, P.C.'s primary legal practice area is the collection of consumer debt.

"I am custodian of records maintained at Michael J. Scott, P.C. Attached hereto please find Exhibits labeled A through F. These documents were kept in the regular course of business, and it was the regular course of our business, with knowledge of the act, event, condition or opinion to make the record or to transmit information thereof to be included in this record; and the record was made at or near the time or reasonably soon thereafter. The record attached hereto as Exhibit A is a printout of certain information which is contained within the collection and case management data systems of Michael J. Scott, P.C. and which pertains to the Account described below. The records attached hereto as Exhibits B, C, D, E and F are exact duplicates of the original document.

"In early 2011, an account for John Johnson of San Antonio, Texas, account number (XXXXXXXXXXXX9131), was placed with my Firm for collection (the "Account"). Exhibit A. The Account was originated and administered by FIA Card Services, N.A., and bore the name "Bank of America".

"John Johnson opened the account with the address of 11006 Clifton Forge St., San Antonio, Texas 78230-1717 in Bexar County. Exhibit B. This was the address on Plaintiff's Pre-Qualified Acceptance Certificate. *Id.* When an account is received, it is Michael J. Scott, P.C.'s policy and procedure to run a data and information search on every account to make sure the account information is current and accurate. This was done for John Johnson's account, the Clifton Forge St. address in Bexar County was listed as his known residence, and no other address was returned.

"On March 2, 2011, Michael J. Scott, P.C. sent a demand letter to John Johnson to the Clifton Forge St. address. Exhibit C. Michael J. Scott used this particular address based on both John Johnson's account information provided to by FIA Card Services, N.A., as well as information returned on Michael J. Scott's independent information search.

"On March 18, 2011, Michael J. Scott, P.C. received a letter in response from Plaintiff identifying his address as the Clifton Forge St. address, requesting verification of the debt, and for all communications to be via mail to the Clifton Forge St. address. Exhibit D. Receiving this letter confirmed that the address on John Johnson's account was a proper address.

"On or about March 24, 2011, Michael J. Scott, P.C. sent John Johnson a verification of the debt. At that time, Michael J. Scott, P.C. did not retain an actual copy of the letter, however

the receipt of the request and the firm's response are specifically notated in the firm records. See highlighted portion of **Exhibit A**.

"On May 31, 2011, Michael J. Scott, P.C. filed a lawsuit on behalf of FIA Card Services, N.A. in the County Court at Law, No. 3, in Bexar County, Texas, Cause No. 369417. **Exhibit E**.

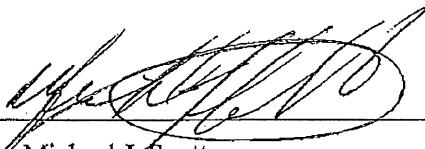
"On December 19, 2011, the court entered a final default judgment for \$16,293.69 plus interest and taxable costs of court against John Johnson. **Exhibit F**.

"To summarize the relevant dates for the convenience of the Court (see Exhibit A):

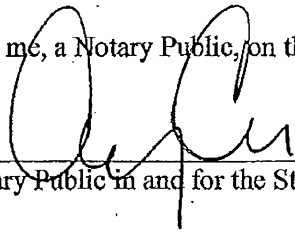
Account placed with Firm	02/28/2011
Demand Letter Sent	03/04/2011
Verification of Debt Requested	03/18/2011
Verification of Debt Sent	03/24/2011
Suit Filed	05/31/2011
Final Judgment Obtained	12/19/2011
Present Litigation Filed	11/29/2012
Summons Issued as to Michael J. Scott, P.C.	05/03/2013

"All actions undertaken by Michael J. Scott, P.C. with regard to the collection of the account up to and including the entry of judgment, were completed more than one year prior to Michael J. Scott, P.C. being served with service of process in the present litigation."

Further, Affiant Sayeth Not.

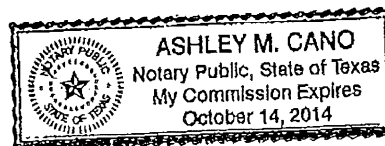

Name: Michael J. Scott
Firm: Scott, Parnell & Associates, P.C.
f/k/a Michael J. Scott, P.C.
Title: President

SWORN TO AND SUBSCRIBED before me, a Notary Public, on this the 7th day of May, 2014.


Notary Public in and for the State of Texas

My Commission Expires:

10/14/14



Johnson_281963_Collection Notes_20140415.txt

CASE SUMMARY

DEBTOR'S NAME	Johnson, John
ATTORNEY NAME	
MJSPC CLIENT	FIA Card Services, N.A.
MJSPC FILE NUMBER	281963
FILE STATUS	Closed - Other
CLOSED DATE	02/13/2014
ACCT NUMBER	XXXXXXXXXXXX9131
PLACED PRN	\$16,293.69
CHARGE-OFF DATE	08/31/2010
CASE STATUS	No Active Case
COUNTY	Bexar County
COURT	County Court at Law No. 3
CASE NO.	369417
PLACEMENT DATE	02/28/2011
DEMAND LTR DATE	03/04/2011
SUIT PRINTED	05/10/2011
FILED_STAMPED	05/31/2011
SERVED	08/06/2011
ANSWERED	None
MDJ FILED	01/12/2012
JUDGMENT DATE	N/A
AFFIDAVIT?	Yes
LAST DOD SCRUB	20130807_01
MEDIA	Yes

ACTIVITY JOURNAL - 80 Record(s)

03/02/2011	Cell Phone Skip Trace performed on this file on 3/2/2011.
03/18/2011	Req for Verification received and file placed on Hold
03/24/2011	*Verification letter was sent
03/25/2011	Verification letter forwarded to Debtor; Hold Released
06/30/2011	D1: 6/29/2011: 106 Requested



VISA

JACOBI & JACOBI LLP

Pre-Qualified Acceptance Certificate

Just complete and return in the enclosed postage-paid envelope by January 5, 2004.

For faster service, call 1.800.654.1898 or enter your personal secure code at www.mynewcard.com.

Your card will include a credit line up to \$5,000.

M9693610827 A12-S12

CPI 103-093-710-836

*****AUTO** 5-DIGIT 78230

John P. Johnson

11006 Clifton Forge St.

San Antonio, TX 78230-1717

|||||

No
Annual
Fee

Social Security Number

210 561 7851

Home Phone

210 842 7851

Business Phone

90 000 00

Gross Yearly Household Income

E-Mail Address (optional)

I agree, from salary, child support, or separate maintenance payment need not be

received by you or your spouse to consider it as a basis for repayment.

By signing below, you agree to the authorizations, terms, and conditions on the reverse side

Authorized Signatory

Authorized User (You request an additional card for use following person who is authorized

to use your account)

Yes, I am signing below to acknowledge receipt of the Cardholder Security Plan™ Terms and Conditions* within this package and I want to help protect my account with the optional Cardholder Security Plan. This plan can credit my credit card account up to 12 monthly payments** in the event of disability, unemployment or unpaid family leave of absence or up to \$10,000 in the event of accidental death.

Sign here for the Cardholder Security Plan

DRES1103

First Name

Middle Initial

Last Name

Balance Transfer Savings with a 0% Introductory APR

Balance transfer requests will be processed in the order listed below. Each balance transfer request must be at least \$100. Allow 3-4 weeks to process. Please see information on reverse side. For balance transfers from loans other than major bank cards (retail cards, student/auto loans, home equity, etc.) please include the address in addition to account number, issuer and amount.

1.) Account Number

Payee

Payment Address

Exact Amount To Be Transferred

\$

2.) Account Number

Payee

Payment Address

Exact Amount To Be Transferred

\$

3.) Account Number

Payee

Payment Address

Exact Amount To Be Transferred

\$

0153015

To help process your request without delay, please provide complete account information with your signature above

CL-12A 1103



DefApps0005

MICHAEL J SCOTT, PC

Ph: (972) 428-3550
Toll Free: (866) 298-3155
helpdesk@scott-po.com

ATTORNEYS AT LAW
1120 Metrocrest Dr., Suite 100
Carrollton, Texas 75006-5862
March 2, 2011

Hours of Operation (CST)
Monday-Friday: 8:00AM-8:00PM
Saturday: 10:00AM-2:00PM

Re: Account Holder: FIA Card Services, N.A.
Credit Card Name:
Original Account Number: XXXXXXXXXXXX9585
Total Amount Now Due: \$16,293.69
Our File Number: TK-281963

Dear Mr. Johnson,

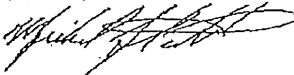
This law firm represents FIA Card Services, N.A. in connection with the above-stated claim (the "Account"). FIA Card Services, N.A. is the owner and holder of the Account and as of the writing of this letter, the amount owed on the Account is \$16,293.69.

Unless we receive payment of \$16,293.69 within 35 days from your receipt of this letter, we have been instructed to pursue collection of the Account through any legal recourse we deem appropriate. We hope to avoid this.

If you cannot pay the full amount, you will need to call our office to make suitable payment arrangements. If we do not hear from you in the next 35 days, we will assume that the debt is valid and that you do not intend on paying it. In such an event, we will begin taking steps to enforce our client's interest, including the possible filing of a lawsuit against you.

Please call us at your earliest opportunity so that we can resolve this matter. Our number is (866) 298-3155.

Sincerely,



Attorney

* This law firm is a debt collector and this is an attempt to collect a debt. Any information obtained from you will be used by this law firm for that purpose. Unless you dispute the validity of the debt, or any portion thereof, within thirty days after you receive this letter, we will assume that the debt is valid. If, within this thirty-day period, you notify our law firm in writing that you dispute the debt, or any portion of the debt, we will obtain a verification of the debt from our client and a copy of such verification will be mailed to you by the firm. Within 30 days of your receipt of this letter, you may send to us a written request that we provide to you the name and address of the original creditor, if different from the current creditor, and we will do so.

CCSMISF01DL-01-002

*** Please Detach the Lower Portion and Return with your Payment in the Enclosed Envelope ***



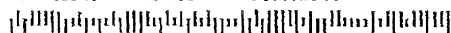
PO Box 115220
Carrollton TX 75011-5220

ADDRESS SERVICE REQUESTED

Our File No.: TK-281963
Orig. Creditor:
Orig. Acct No.: XXXXXXXXXXXX9585
Total Amt. Due: \$16,293.69

March 2, 2011.

TK-281963-DL-01-002 501752566



John Johnson
11006 Clifton Forge St
San Antonio TX 78230-1717

Please make your check payable to:
Michael J Scott, P.C. -- IOLTA Account

Michael J. Scott, PC
Attorneys at Law
PO Box 113297
Carrollton TX 75011-3297



DefApps0006

15 March 2011

John P. Johnson
11006 Clifton Forge
San Antonio, Tx 78230

Michael J Scott, PC
1120 Metrocrest Dr., Suite 100
Carrollton, Texas 75006-5862

I recently received a letter from your company indicating that I owe you some money. I've never heard of Michael J Scott, PC. I have never bought any merchandise whatsoever from your firm, nor to the best of my knowledge and belief have they ever performed any service for me of any kind whatsoever.

I would like to resolve this matter at the earliest possible time, however due to the possibility of error or fraud in this matter, I must insist that you prove that I owe you this purported debt and why.

In order to prove the debt, I must have a signed and sworn statement before a notary public under penalty of perjury by a person having firsthand knowledge of the indebtedness and stating that the reported indebtedness was a legal indebtedness under all applicable state and federal laws, was not subsequently disputed as a result of returned, faulty, or recalled consumer products, and furthermore swearing that this purported debt is not now nor ever has been part of any tax write off scheme nor insurance claim. Please be advised that I am requesting validation and competent evidence that I had some contractual obligation sans consumer protection encumbrance whereby I incurred the original claims associated with this purported debt.

Please be advised that under the Fair Debt Collections Practices Act, I am authorized to demand that you not contact me by telephone, nor at my place of employment by any means whatsoever. If you wish to communicate with me, you may do so only by U.S. mail and only at the above address.

Your failure to provide such information as I request in a timely manner



DefApps0007

may constitute prima facie evidence of intent to defraud, intimidate or coerce me and to deprive me of my civil rights.

Please be advised that any contact made by your firm with any 3rd party firm or entity regarding this issue absent compliance with each and every part of this demand for validation may constitute violation of the FDCPA and the FCRA and may constitute grounds for civil or criminal action or complaints being filed against you.

I do hope that you can understand and that we can settle this matter in an amicable fashion at the earliest possible moment.

Sincerely,

John P. Johnson

PRIVATE PROCESS

"The State of Texas"

NO. 369417

FIA CARD SERVICES N A

Plaintiff
vs.

IN THE COUNTY COURT AT

LAW NO. 3

JOHN JOHNSON

Defendant

BEXAR COUNTY, TEXAS

NOTICE

Citation Directed to: JOHN JOHNSON
11006 CLIFTON FORGE ST
SAN ANTONIO, TX 78230-1717

"You have been sued. You may employ an attorney. If you or your attorney do not file a written answer with the clerk who issued this citation by 10:00 a.m. on the Monday next following the expiration of twenty days after you were served this citation and petition, a default judgment may be taken against you." Said petition was filed on the 31ST day of May, 2011.

ISSUED UNDER MY HAND AND SEAL OF SAID COURT ON THIS 2ND DAY OF June, A.D., 2011.

MICHAEL J SCOTT

Attorney/PLAINTIFF

address PO BOX 115220

CARROLLTON, TX 75011-5220



GERARD RICKHOFF

County Clerk of Bexar County, Texas

Bexar County Courthouse

100 Dolorosa Suite 104

San Antonio, Texas 78205

By: Marie E. Poole Deputy
MARIE E. POOLE

OFFICER'S RETURN

Came to hand day of , A.D. , at o'clock M.
and executed the day of , A.D. , in
at o'clock M. by delivering to
in person a true copy of this citation together with the accompanying copy of plaintiff's
petition. Served at

I traveled miles in the execution of this citation. fees: Serving citation
\$ Mileage Total \$

 County, TexasBy

The State of Texas

NON - PEACE OFFICER VERIFICATION

VERIFICATION OF RETURN (IF NOT SERVED BY PEACE OFFICER)

SWORN TO this day of , 

369417

(DKC001)

NOTARY PUBLIC, STATE OF TEXAS

RETURN TO COURT
DefApps0009

PRIVATE PROCESS

"The State of Texas"

NO. 369417

FIA CARD SERVICES N A

Plaintiff
vs.

IN THE COUNTY COURT AT

LAW NO. 3

JOHN JOHNSON

Defendant

BEXAR COUNTY, TEXAS

NOTICE

Citation Directed to: JOHN JOHNSON
11006 CLIFTON FORGE ST
SAN ANTONIO, TX 78230-1717

"You have been sued. You may employ an attorney. If you or your attorney do not file a written answer with the clerk who issued this citation by 10:00 a.m. on the Monday next following the expiration of twenty days after you were served this citation and petition, a default judgment may be taken against you." Said petition was filed on the 31ST day of May, 2011.

ISSUED UNDER MY HAND AND SEAL OF SAID COURT ON THIS 2ND DAY OF June A.D., 2011.

MICHAEL J SCOTT
Attorney/PLAINTIFF
address PO BOX 115220
CARROLLTON, TX 75011-5220



GERARD RICKHOFF
County Clerk of Bexar County, Texas
Bexar County Courthouse
100 Dolorosa Suite 104
San Antonio, Texas 78205

By: Marie E. Poole Deputy
MARIE E. POOLE

OFFICER'S RETURN

Came to hand, day of , A.D. , at o'clock M.
and executed the day of , A.D. , in
at o'clock M. by delivering to
in person a true copy of this citation together with the accompanying copy of plaintiff's
petition. Served at

I traveled miles in the execution of this citation. fees: Serving citation
\$ Mileage Total \$

 County, Texas
By

The State of Texas

NON - PEACE OFFICER VERIFICATION
VERIFICATION OF RETURN (IF NOT SERVED BY PEACE OFFICER)

SWORN TO this day of ,



369417
(DKC001)

NOTARY PUBLIC, STATE OF TEXAS

ORIGINAL
DefApps0010



369417

CAUSE NO. _____

FIA CARD SERVICES, N.A.,
Plaintiff,

vs.

JOHN JOHNSON,
Defendant.

§
§
§
§
§
§

IN THE COUNTY COURT

AT LAW NO. 3

BEXAR COUNTY, TEXAS

FILED IN MY OFFICE
GERARD KROCHOFF
COUNTY CLERK
2011 MAY 31 AM 11:24
BEXAR CO.

PLAINTIFF'S ORIGINAL PETITION

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW FIA CARD SERVICES, N.A., plaintiff in the above-entitled and numbered cause ("Plaintiff"), and for cause of action against defendant John Johnson ("Defendant"), would show unto the Court as follows:

Discovery Control Plan

1. Plaintiff intends to conduct discovery under Level 1 of the Texas Rules of Civil Procedure Rule 190.

Nature of Case

2. Plaintiff seeks a recovery for damages arising from Defendant John Johnson's breach of a Credit Card Account agreement entered into by the Defendant, which Defendant utilized and for which Defendant became obligated to repay. Plaintiff sues herein for breach of contract and for monies owed pursuant to the account. Plaintiff seeks a money judgment against the Defendant, as well as its attorney's fees and costs.

Parties

3. Plaintiff, FIA Card Services, N.A., is a national bank.
4. Defendant John Johnson is an individual upon whom service of citation may be had at Defendant's residence which is located at 11006 CLIFTON FORGE ST, San Antonio, TX 78230-1717.

Venue

5. Venue is proper in Bexar County pursuant to Section 15.002(a)(2) of the Texas Civil Practice and Remedies Code because it is the county of residence for one or more of the defendants at the time the cause of action accrued.

Facts

6. In the usual course of business, Fia Card Services, N.A. advanced dollar amounts on a Credit Card Account or other open account, number XXXXXXXXXXXXX9585, which defendant John Johnson ("Defendant") utilized, and for which Defendant became bound to repay Fia Card Services, N.A. for all amounts thereby advanced (hereinafter, the "Account").

7. The Defendant has ceased making payments on the Account, thereby creating a default.

8. On or about March 4, 2011, Plaintiff sent a letter to Defendant demanding payment in full of the Account (the "Demand Letter"); however, despite delivery of the Demand Letter, no further payments have been made.

9. As of May 10, 2011, there continues to be owed by Defendant to the Plaintiff an unpaid balance of \$16,293.69 and accrued interest of \$0.00. Interest continues to accrue to the Account at the rate of 0.00% per annum.

COUNT I - Suit on Debt/Account Stated

10. Paragraphs 1 through 9 are incorporated by reference.

11. Plaintiff is the owner and beneficiary of all claims related to the Credit Card Account opened by the Defendant with Fia Card Services, N.A. The amount that is due and owing on the Account as of May 10, 2011, is \$16,293.69; said amount being just and true after all lawful offsets, payments and credits have been allowed.

12. Plaintiff is entitled to recover on the Account because (1) transactions between the Plaintiff and the Defendant gave rise to the indebtedness, (2) there existed an agreement between the Plaintiff and the Defendant which established the amount that was due to Plaintiff, and (3) the Defendant promised to pay the Plaintiff on the debt which was incurred, but failed to do so.

13. Plaintiff has presented its claim to Defendant for payment, but Defendant has failed

and refused to pay the amount owed.

COUNT II - Breach of Contract

14. Paragraphs 1 through 13 are incorporated by reference.

15. Plaintiff is the owner and beneficiary of all rights under the Credit Card Account opened by the Defendant with Fia Card Services, N.A. The Account is a contractual agreement under Texas law. Defendant has breached the agreement by failing to pay all amounts due and owing on the Account in accordance with the terms of the agreement.

16. As of May 10, 2011, \$16,293.69 remained due and owing on the Account.

17. Plaintiff has presented its claim to Defendant for payment, but Defendant has failed and refused to pay the amount owed.

COUNT III - Attorney's Fees

18. Paragraphs 1 through 17 are incorporated by reference.

19. Plaintiff has presented its claims for the recovery of amounts herein sought to the Defendant pursuant to § 38.001 of the Texas Civil Practice and Remedies Code; yet no amounts have been paid in response to the claim. Plaintiff is, accordingly, entitled to recovery of its attorney's fees and costs incurred in the prosecution of these claims, both at the trial court level, along with conditional appellate awards for each level to which any judgment rendered in this matter is taken.

Conditions Precedent

20. All conditions precedent to Plaintiff's right of recovery have been fulfilled.

Prayer

WHEREFORE, Plaintiff prays that the Defendant be cited to appear and answer herein, that this Court set this matter for hearing, and that upon final hearing hearof, Plaintiff have judgment against the Defendant for the following:

a. Damages of \$16,293.69, said amount representing the unpaid balance on the Account when it was closed plus accrued interest computed as of May 10, 2011;

- b. Prejudgment interest from May 10, 2011 until the date of judgment computed at the rate of 0.00% per annum or at the maximum rate allowed by law;
- c. Reasonable and necessary of attorney's fees of at least \$0.00 or as otherwise awarded by the Court;
- d. Costs of court;
- e. Post-judgment interest at the maximum rate allowed by law; and
- f. Such other relief to which Plaintiff may be justly entitled.

[Signature on Following Page]

Respectfully Submitted,

MICHAEL J. SCOTT, P.C.



Michael J. Scott	SBN 24000876
Teri Stewart Mace	SBN 12759480
Judith Morgan	SBN 00789500
T. L. Elder	SBN 00784013
Jessica Eckstein	SBN 24043624

PO Box 115220
Carrollton, Texas 75011-5220
Ph: (214) 234-8456
Fax: (214) 234-8454
Email: helpdesk@scott-pc.com
ATTORNEYS FOR
FIA CARD SERVICES, N.A.

CAUSE NO. _____

FIA CARD SERVICES, N.A.,	§	IN THE COUNTY COURT
Plaintiff,	§	
	§	
vs.	§	AT LAW NO. _____
	§	
JOHN JOHNSON,	§	
Defendant.	§	BEXAR COUNTY, TEXAS

PLAINTIFF'S REQUEST FOR ADMISSIONS

To: John Johnson, 11006 CLIFTON FORGE ST, San Antonio, TX 78230-1717

Pursuant to Tex.R.Civ.P. 198.2(a), Plaintiff hereby requests that defendant John Johnson serve a written response to the Plaintiff within fifty (50) days after service of this Request for Production. Unless an objection or an assertion of privilege is made by John Johnson, the response "must admit or deny the request or explain in detail the reasons that the responding party cannot admit or deny the request" [emphasis added].

IMPORTANT NOTICE

Be advised that pursuant to Rule 198.2(c) of the Texas Rules of Civil Procedure, if you do not timely serve a response to this Request for Admission, "the request is considered admitted without the necessity of court order." As a result, FIA Card Services, N.A. may be able to establish its case against you based solely on your failure to respond.

REQUEST NO. 1: Admit that you, the Defendant (hereinafter, also referred to as "you") entered into an agreement whereby Fia Card Services, N.A. extended credit to you on account number XXXXXXXXXXXXX9585 and you agreed to repay Fia Card Services, N.A. for such credit plus any interest and fees charged by Fia Card Services, N.A. (the "Account").

Response: Admit Deny

REQUEST NO. 3: Admit that you, or another with your permission, accepted the credit extended by Fia Card Services, N.A. and utilized such credit for the purchases of goods, wares, merchandise, services or for cash advances.

Response: Admit Deny

REQUEST NO. 4: Admit that the Account has not been paid, discharged, settled or otherwise

compromised.

Response: Admit Deny

REQUEST NO. 5: Admit that pursuant to your agreement with Fia Card Services, N.A., that as of May 10, 2011, the balance due and owing on the Account, after all payments, credit and offsets have been applied, was \$16,293.69 (\$16,293.69 as the charge-off balance, and \$0.00 in post-charge-off accrued interest).

Response: Admit Deny

REQUEST NO. 6: Admit that the above-described Account is the same Account which Plaintiff is seeking to collect in this lawsuit.

Response: Admit Deny

REQUEST NO. 7: Admit that the Account is based upon a written agreement, signed by you, which entitles the holder of the account to charge interest on the Account at the rate of 0.00% per annum until paid.

Response: Admit Deny

REQUEST NO. 8: Admit that FIA Card Services, N.A. is the owner of all claims related to the Account.

Response: Admit Deny

REQUEST NO. 9: Admit that more than thirty (30) days prior to filing this lawsuit, Plaintiff presented to Defendant a demand for payment of the outstanding balance of the Account.

Response: Admit Deny

REQUEST NO. 10: Admit that you regularly received statements from Fia Card Services, N.A. informing you of all charges and credits to your account and the account balance.

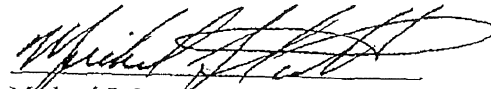
Response: Admit Deny

REQUEST NO. 11: Admit that you never disputed any charge on the account statements you

received from Fia Card Services, N.A.

Response: Admit Deny

Respectfully Submitted,
MICHAEL J. SCOTT, P.C.

A handwritten signature in black ink, appearing to read "Michael J. Scott", is written over a horizontal line.

Michael J. Scott
Texas Bar No. 24000876
PO Box 115220
Carrollton, Texas 75011-5220
Ph: (214) 234-8456
Fax: (214) 234-8454
Email: helpdesk@scott-pc.com
ATTORNEYS FOR
FIA CARD SERVICES, N.A.

DefApps0018

DEC 19 2011

CAUSE NO. 369417

FIA CARD SERVICES, N.A.
Plaintiff,

IN THE COUNTY COURT

v.

AT LAW NO. 3

JOHN JOHNSON
Defendant.

BEXAR COUNTY, TEXAS

FINAL DEFAULT JUDGMENT

On this day came on for consideration *Plaintiff's Motion for Entry of Default Judgment* in the above-styled and numbered cause. The Court, having reviewed the records of this Court and the evidence presented by Plaintiff's Motion, **FINDS** that the Defendant John Johnson, though served with Citation, has failed to answer Plaintiff's petition, that the return of the Citation has been filed with the Court for the requisite period as provided for by the Rules, and that Plaintiff has established the amount of its damages. Therefore, the Court **GRANTS** *Plaintiff's Motion for Entry of Default Judgment*.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that judgment is entered for Plaintiff FIA Card Services, N.A. and against Defendant John Johnson for \$16,293.69, plus taxable Costs of Court; for all of which let execution issue.

IT IS FURTHER ORDERED that this Judgment shall accrue interest from the date hereof until satisfied, at the following rates: 5.00% per annum as to the Damage award portion of this Judgment and 5.00% per annum as to all other amounts awarded herein.

THIS ORDER DISPOSES OF ALL PARTIES AND ALL ISSUES PRESENTED
IN THIS CASE AND IS FINAL FOR PURPOSES OF AN APPEAL.

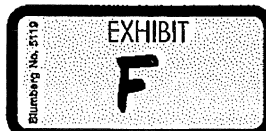
SIGNED: 12-14, 2011.

JUDGE PRESIDING

For information only



281963 JDDO



FILED IN MY OFFICE
GERARD RICHMOND
COUNTY CLERK, BEXAR CO.
2011 DEC 14 PM 4:28

DefApps0019